



U.S. Department of Justice

*United States Attorney  
Eastern District of New York*

*One Pierrepont Plaza  
Brooklyn, New York 11201*

*Mailing Address: 147 Pierrepont Street  
Brooklyn, New York 11201*

October 15, 2004

Honorable Cheryl Pollak  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Johnson v. Bryco, CV-03-2582  
Smith v. Bryco, CV-02-3029  
City v. Beretta, CV-00-3641  
(Weinstein, J.) (Pollak, M.J.)

Dear Magistrate Judge Pollak:

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) respectfully writes to inform the Court of recent developments concerning a subject that was raised at the conference held on October 1, 2004, i.e. subpoenas served by defendants upon ATF.

Between September 24, 2004 and October 4, 2004, certain defendants served a total of four (4) subpoenas upon ATF. Copies of these subpoenas are collectively annexed as Appendix A. By letters dated October 4, 2004 and October 5, 2004, ATF responded by requesting that the defendants provide this Office with a statement concerning the documents that they seek to have produced, as mandated by 21 C.F.R. § 16.22(d). Copies of these letters are collectively annexed as Appendix B.

As of this writing, this Office has not received a response to any of the letters. Unless and until defendants exhaust their administrative remedies by, inter alia, complying with § 16.22(d), this Court lacks subject matter jurisdiction to adjudicate any dispute concerning the subpoenas. In re Security

and Exchange Commission ex re. Glotzer, 374 F.3d 184, 188-92 (2d Cir. 2004).

Respectfully submitted,

ROSLYNN R. MAUSKOPF  
United States Attorney

S/\_\_\_\_\_  
By: ELLIOT M. SCHACHNER  
Assistant U.S. Attorney  
(718) 254-6053

cc:

Leonard Rosenbaum, Esq.  
Renzulli Pisciotto & Renzulli, LLP  
300 East 42<sup>nd</sup> Street  
New York, NY 10017-5947

Paul L. Kassirer, Esq.  
Lester Schwab Katz & Dwyer, LLP  
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New York, NY 10271-0071

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New York, NY 10123

Eric Proshansky, Esq.  
Assistant Corporation Counsel  
NYC Law Department  
100 Church Street  
New York, NY 10007

Elisa Barnes, Esq.  
111 Broadway, 4<sup>th</sup> Floor  
New York, NY 10006

## APPENDIX A

Issued by the  
UNITED STATES DISTRICT COURT  
DISTRICT OF

EASTERN

NEW YORK

THE CITY OF NEW YORK,

Plaintiff,

V.

BERETTA U.S.A. CORP., et al.,

Defendants.

SUBPOENA IN A CIVIL CASE

CASE NUMBER:<sup>1</sup> 00 CV 3641  
(Pending in the United States  
District Court for the Eastern  
District of New York)

To: Bureau of Alcohol, Tobacco, Firearms & Explosives  
New York Field Division  
241 37th Street, 3rd Floor  
Brooklyn, NY 11232

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (List documents or objects):

SEE ATTACHMENT "A"

PLACE

Jones Day  
222 East 41st Street  
New York, NY 10017  
(212) 326-3939

DATE AND TIME

October 18, 2004  
10:00 a.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

ATTORNEY FOR DEFENDANT COLT'S  
MANUFACTURING CO., LLC and signing  
on behalf of all MANUFACTURER  
DEFENDANTS

DATE

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
Michael L. Rice  
JONES DAY

Address: 2727 North Harwood Street  
Dallas, Texas 75201  
Telephone: (214) 220-3939

September 15, 2004

<sup>1</sup>If action is pending in district other than district of issuance, state district under case number.  
(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

DLI-5870855v1

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts

business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**ATTACHMENT A**  
**DOCUMENT REQUEST**

For the following list of ATF Firearm Tracing System (FTS) Oracle Tables, produce all the trace data contained within the data fields listed.

1.     **FTS\_ADMINISTRATIVE**  
        FLD1\_LABEL  
        FLD1\_REMARK  
        FLD2\_LABEL  
        FLD2\_REMARK  
        FLD3\_LABEL  
        FLD3\_REMARK  
        FLD4\_LABEL  
        FLD4\_REMARK  
        FLD5\_LABEL  
        FLD5\_REMARK  
        FLD6\_LABEL  
        FLD6\_REMARK  
        FLD7\_LABEL  
        FLD7\_REMARK  
        PROJECT\_NATIONAL1  
        PROJECT\_NATIONAL2  
        PROJECT\_NATIONAL3  
        PROJECT\_NATIONAL4  
        PROJECT\_LOCAL1  
        PROJECT\_LOCAL2  
        LOCAL\_OFFICER
5.     **FTS\_COOPERATION\_REF**  
        COOPERATION\_DESC
8.     **FTS\_DEALTR**  
        DEMAND\_TYPE
9.     **FTS\_DEALTR\_NOTES**  
        NOTE\_TEXT
17.    **FTS\_FFLINVST\_NOTES**  
        FFLINVST\_FFL  
        NOTE\_SEQ

- 19.    **FTS\_FFL\_THEFT**  
          CALLER\_LSTNME  
          CALLER\_FSTNME  
          CALLER\_MIDNME  
          CALLER\_PHONE  
          CALLER\_EVE\_PHONE
- 21.    **FTS\_FFL\_THEFT\_NOTES**  
          NOTE\_TEXT
- 29.    **FTS\_INDIVIDUAL**  
          I\_LSTNME  
          I\_FSTNME  
          I\_MIDNME  
          I\_NAME\_SUFFIX  
          I\_AKA\_LSTNME  
          I\_AKA\_FSTNME  
          I\_AKA\_MIDNME  
          I\_AKA\_SUFFIX  
          I\_ROUTE\_NO  
          I\_APT\_NO  
          I\_STREET\_NO  
          I\_STREET\_DIR  
          I\_STREET\_NME  
          I\_STREET\_SUF  
          I\_IDENT\_NO1  
          I\_IDENT\_NO2
- 30.    **FTS\_INDIVIDUAL\_NOTES**  
          NOTE\_TEXT
- 32.    **FTS\_INTERSTATE\_THEFT**  
          CARRIER\_NAME  
          CARRIER\_STREET  
          CARRIER\_CITY  
          CARRIER\_STATE  
          CARRIER\_ZIP  
          CARRIER\_PHONE  
          CARRIER\_FAX  
          SHIPPER\_CLAIM\_NUM  
          SHIPPER\_CLAIM\_NUM  
          REPORTING\_COMPANY

REPORTING\_LSTNME  
REPORTING\_FSTNME  
REPORTING\_MIDNME  
REPORTING\_PHONE  
REPORTING\_FAX  
33. FTS\_INTERSTATE\_THEFT\_NOTES  
NOTE\_TEXT  
34. FTS\_INVALID\_FFL  
Z\_LIC\_NAME  
Z\_BUS\_NAME  
35. FTS\_INVALID\_FFL\_NOTES  
NOTE\_TEXT  
43. FTS\_RECOVERY\_INFO  
REC\_ROUTE\_NO  
REC\_APT\_NO  
REC\_STREET\_NO  
REC\_STREET\_DIR  
REC\_STREET\_NME  
REC\_STREET\_SUF  
44. FTS\_RECOVERY\_INFO\_NOTES  
NOTE\_TEXT  
49. FTS\_SPERSON  
SP\_LSTNME  
SP\_FSTNME  
SP\_MIDNME  
SP\_NAME\_SUFFIX  
SP\_SSN  
SP\_ROUTE\_NO  
SP\_APT\_NO  
SP\_STREET\_NO  
SP\_STREET\_DIR  
SP\_STREET\_NME  
SP\_STREET\_SUF  
SP\_ZIP  
50. FTS\_SPERSON\_NOTES  
NOTE\_TEXT  
52. FTS\_STATE\_REG\_REF  
REMARKS



- 57.    **FTS\_THEFT\_RECOVERY**
  - ORI\_STAT
  - ORI-OFFC
  - ORI\_EMAIL
  - ORI\_FC
  - OA\_LAST\_NME
  - OA\_FIRST\_NME
  - THEFT\_STREET\_NO
  - THEFT\_STREET\_DIR
  - THEFT\_STREET\_NME
  - THEFT\_STREET\_SUF
  - THEFT\_APT
  - THEFT\_ROUTE
  - IND\_LAST\_NME
  - IND\_FIRST\_NME
  - IND\_MIDDLE\_NME
  - IND\_NAME\_SUFFIX
  - IND\_DOB
- 58.    **FTS\_THEFT\_RECOVERY\_NOTES**
  - NOTE\_TEXT
- 59.    **FTS\_TRACE**
  - ORI\_OFFICE
  - ORI\_EMAIL
  - ORI\_FC
  - OA\_INV\_NUMBER
  - OA\_BADGE
  - OA\_LSTNME
  - OA\_FSTNME
  - GANG\_NAME
- 60.    **FTS\_TRACE\_INDICATOR**
  - INDICATOR\_CODE
- 61.    **FTS\_TRACE\_INDICATOR\_REF**
  - INDICATOR\_CODE
  - INDICATOR\_DESC
- 62.    **FTS\_TRACE\_NOTES**
  - NOTE\_TEXT
- 67.    **FTS\_WEAPON\_NOTES**
  - NOTE\_TEXT

Issued by the  
**UNITED STATES DISTRICT COURT**

**EASTERN**

**DISTRICT OF**

**NEW YORK**

JAQUIONE JOHNSON,

Case No. CV 03 2582

Plaintiff,

**SUBPOENA IN A CIVIL CASE**

-against-

BRYCO ARMS INC., et al.,

Defendants.

=====

JOAN TRUMAN SMITH, as Administratrix  
of the Estate of Anita Smith, Deceased,

Case No. CV 02 3029

Plaintiff,

-against-

BRYCO ARMS, et al.,

Defendants.

=====

**TO:** Bureau of Alcohol, Tobacco, Firearms and Explosives  
New York Field Division  
241 37<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Brooklyn, NY 11232

☐ **YOU ARE COMMANDED** to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ **YOU ARE COMMANDED** to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

☒ **YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): **SEE ATTACHED LIST (Exhibit A)**

PLACE Lester, Schwab, Katz & Dwyer, LLP 120 Broadway, 38 <sup>th</sup> Floor New York, New York 10271 (212) 964-6611	DATE AND TIME  October 18, 2004 10:00 a.m.
--	---

☐ **YOU ARE COMMANDED** to permit inspection of the following premises at the date and time specified below

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorneys for Defendant AcuSport Corporation	DATE  September 20, 2004
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  Allison A. Snyder, Esq. (AS-7094) Lester, Schwab, Katz & Dwyer, LLP 120 Broadway, 38 <sup>th</sup> Floor New York, New York 10271 (212) 964-6611	

(See Rule 45, Federal Rules of Civil Procedure, Parts C&D on Reverse)

PROOF OF SERVICE			
SERVED	DATE	PLACE	
SERVED ON (PRINT NAME)		MANNER OF SERVICE	
SERVED BY (PRINT NAME)		TITLE	

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

**RULE 45. FEDERAL RULES OF CIVIL PROCEDURE, Parts C & D:**

**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provision of clause (c)(3)(B)(iii) of this rule, such a person may, in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the

court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**ATTACHMENT: EXHIBIT A****DOCUMENT REQUEST**

For the following list of ATF Firearm Tracing System (FTS) Oracle Tables, produce all the trace data contained within the data fields listed.

1.    **FTS\_ADMINISTRATIVE**  
      FLD1\_LABEL  
      FLD1\_REMARK  
      FLD2\_LABEL  
      FLD2\_REMARK  
      FLD3\_LABEL  
      FLD3\_REMARK  
      FLD4\_LABEL  
      FLD4\_REMARK  
      FLD5\_LABEL  
      FLD5\_REMARK  
      FLD6\_LABEL  
      FLD6\_REMARK  
      FLD7\_LABEL  
      FLD7\_REMARK  
      PROJECT\_NATIONAL1  
      PROJECT\_NATIONAL2  
      PROJECT\_NATIONAL3  
      PROJECT\_NATIONAL4  
      PROJECT\_LOCAL1  
      PROJECT\_LOCAL2  
      LOCAL\_OFFICER
5.    **FTS\_COOPERATION\_REF**  
      COOPERATION\_DESC
8.    **FTS\_DEALTR**  
      DEMAND\_TYPE
9.    **FTS\_DEALTR\_NOTES**  
      NOTE\_TEXT
17.   **FTS\_FFLINVST\_NOTES**  
      FFLINVST\_FFL  
      NOTE\_SEQ
19.   **FTS\_FFL\_THEFT**  
      CALLER\_LSTNME  
      CALLER\_FSTNME  
      CALLER\_MIDNME

CALLER\_PHONE

CALLER\_EVE\_PHONE

21. FTS\_FFL\_THEFT\_NOTES  
NOTE\_TEXT

29. FTS\_INDIVIDUAL  
I\_LSTNME  
I\_FSTNME  
I\_MIDNME  
I\_NAME\_SUFFIX  
I\_AKA\_LSTNME  
I\_AKA\_FSTNME  
I\_AKA\_MIDNME  
I\_AKA\_SUFFIX  
I\_ROUTE\_NO  
I\_APT\_NO  
I\_STREET\_NO  
I\_STREET\_DIR  
I\_STREET\_NME  
I\_STREET\_SUF  
I\_IDENT\_NO1  
I\_IDENT\_NO2

30. FTS\_INDIVIDUAL\_NOTES  
NOTE\_TEXT

32. FTS\_INTERSTATE\_THEFT  
CARRIER\_NAME  
CARRIER\_STREET  
CARRIER\_CITY  
CARRIER\_STATE  
CARRIER\_ZIP  
CARRIER\_PHONE  
CARRIER\_FAX  
SHIPPER\_CLAIM\_NUM  
SHIPPER\_CLAIM\_NUM  
REPORTING\_COMPANY  
REPORTING\_LSTNME  
REPORTING\_FSTNME  
REPORTING\_MIDNME  
REPORTING\_PHONE  
REPORTING\_FAX

33. FTS\_INTERSTATE\_THEFT\_NOTES  
NOTE\_TEXT

34. FTS\_INVALID\_FFL  
Z\_LIC\_NAME  
Z\_BUS\_NAME

35. FTS\_INVALID\_FFL\_NOTES  
NOTE\_TEXT

43. FTS\_RECOVERY\_INFO  
REC\_ROUTE\_NO  
REC\_APT\_NO  
REC\_STREET\_NO  
REC\_STREET\_DIR  
REC\_STREET\_NME  
REC\_STREET\_SUF

44. FTS\_RECOVERY\_INFO\_NOTES  
NOTE\_TEXT

49. FTS\_SPERSON  
SP\_LSTNME  
SP\_FSTNME  
SP\_MIDNME  
SP\_NAME\_SUFFIX  
SP\_SSN  
SP\_ROUTE\_NO  
SP\_APT\_NO  
SP\_STREET\_NO  
SP\_STREET\_DIR  
SP\_STREET\_NME  
SP\_STREET\_SUF  
SP\_ZIP

50. FTS\_SPERSON\_NOTES  
NOTE\_TEXT

52. FTS\_STATE\_REG\_REF  
REMARKS

57. FTS\_THEFT\_RECOVERY  
ORI\_STAT  
ORI-OFFC  
ORI\_EMAIL  
ORI\_FC  
OA\_LAST\_NME  
OA\_FIRST\_NME  
THEFT\_STREET\_NO

THEFT\_STREET\_DIR  
THEFT\_STREET\_NME  
THEFT\_STREET\_SUF  
THEFT\_APT  
THEFT\_ROUTE  
IND\_LAST\_NME  
IND\_FIRST\_NME  
IND\_MIDDLE\_NME  
IND\_NAME\_SUFFIX  
IND\_DOB  
58. FTS\_THEFT\_RECOVERY\_NOTES  
NOTE\_TEXT  
59. FTS\_TRACE  
ORI\_OFFICE  
ORI\_EMAIL  
ORI\_FC  
OA\_INV\_NUMBER  
OA\_BADGE  
OA\_LSTNME  
OA\_FSTNME  
GANG\_NAME  
60. FTS\_TRACE\_INDICATOR  
INDICATOR\_CODE  
61. FTS\_TRACE\_INDICATOR\_REF  
INDICATOR\_CODE  
INDICATOR\_DESC  
62. FTS\_TRACE\_NOTES  
NOTE\_TEXT  
67. FTS\_WEAPON\_NOTES  
NOTE\_TEXT



Issued by the  
**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF NEW YORK

THE CITY OF NEW YORK,

Plaintiff,

V.

BERETTA U.S.A. CORP., et al.,

Defendants.

**SUBPOENA IN A CIVIL CASE**

CASE NUMBER:<sup>1</sup> 00 CV 3641  
(Pending in the United States  
District Court for the Eastern  
District of New York)

To: Bureau of Alcohol, Tobacco, Firearms & Explosives  
New York Field Division  
241 37th Street, 3rd Floor  
Brooklyn, NY 11232

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

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PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (List documents or objects):

**SEE ATTACHMENT "A"**

PLACE

Jones Day  
222 East 41st Street  
New York, NY 10017  
(212) 326-3939

DATE AND TIME

October 25, 2004  
10:00 a.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

ATTORNEY FOR DEFENDANT COLTS  
MANUFACTURING CO., LLC and signing  
on behalf of all MANUFACTURER  
DEFENDANTS

DATE

9/23/04

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Michael L. Rice  
JONES DAY

Address: 2727 North Harwood Street  
Dallas, Texas 75201  
Telephone: (214) 220-3939

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

<sup>1</sup>If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts

business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**ATTACHMENT A  
DOCUMENT REQUEST**

For the following list of ATF Firearm Tracing System (FTS) Oracle Tables, produce all the data contained within the data fields listed.

- 13. **FTS\_DEMAND\_NOTES:**  
NOTE\_TEXT
- 15. **FTS\_DISTRIBUTOR\_TYPE\_REF:**  
FFL\_LIC\_TYPE\_CODE
- 17. **FTS\_FFLINVST\_NOTES**  
ENTERED\_USER  
ENTERED\_TIME
- 18. **FTS\_FFL\_DEMAND:**  
FFL\_NAME  
TRANSACTION\_DATE  
IND1-IND4
- 19. **FTS\_FFL\_THEFT**  
NUMBER\_INJURIES  
NUMBER\_KILLED
- 46. **FTS\_RECOVERY\_TYPE**  
REC\_TYPE  
TYPE\_OPERATIVE\_FLG  
TYPE\_OPERATIVE\_TIME  
RECOV\_TYP\_DESC
- 53. **FTS\_STATUS**  
INDIVIDUAL\_PURCHASE\_IND  
SUCCESS\_IND  
STAT\_DESC  
SUCCESS\_IND  
DELAY\_IND  
OBR\_IND
- 59. **FTS\_TRACE**  
SPEC\_INST  
REMARKS\_TO\_REQSTR
- 65. **FTS\_VEHICLE**  
SEQ\_NO  
VEH\_MAKE  
VEH\_MODEL  
VEH\_YEAR

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Issued by the  
**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF NEW YORK

---

**JAQUIONE JOHNSON,**

**Plaintiff,**

**03 CV 2585 (JBW) (CLP)**

**-against-**

**SUBPOENA IN A CIVIL CASE**

**BRYCO ARMS INC., et al.,**

**Defendants**

-----  
**JOAN TRUMAN SMITH, as Administratrix  
of the Estate of Anita Smith, Deceased**

**Plaintiff,**

**02 CV 3029 (JBW) (CLP)**

**-against-**

**BRYCO ARMS INC., et al.,**

**Defendants**

-----  
**TO: Bureau of Alcohol, Tobacco, Firearms and Explosives  
New York Field Division  
241 37th Street, 3rd floor  
Brooklyn, NY 11232**

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

**X** YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

**See attached Exhibit "A."**

PLACE

DATE AND TIME

**Renzulli, Piscioti & Renzulli, LLP  
300 East 42nd Street, New York, New York, 10017-5947  
(212) 599-5533**

**Oct. 29, 2004 at 10:00 am**

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30 (b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

**Attorney for Defendant, Atlantic Gun & Tackle**

**Oct. 4, 2004**

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER:

**Leonard S. Rosenbaum**  
**c/o Renzulli, Piscioti & Renzulli, LLP**  
**300 East 42nd Street**  
**New York, New York 10017-5947**  
**(212) 599-5533**

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

1 If action is pending in district other than district of issuance, state district under case number.

**COPIES FURNISHED TO ALL COUNSEL OF RECORD.**



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## PROOF OF SERVICE

---

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

---

## DECLARATION OF SERVER

---

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

---

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible place of production or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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(i) falls to allow reasonable time for compliance;  
(ii) require a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held.

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies or  
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of trade secret or other confidential research, development, or commercial information, or information, or

(ii) requires disclosure of an unretained expert's opinion dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to affected by the subpoena, quash or modify the subpoena, or, if the need for the testimony or material that cannot be otherwise met without undue hardship and assured that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business shall organize and label them to correspondence with the categories in the demand.

(2) When information subject to a subpoena is withheld on claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

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NUMBER\_INJURIES  
NUMBER\_KILLED
- 46. **FTS\_RECOVERY\_TYPE**  
REC\_TYPE  
TYPE\_OPERATIVE\_FLG  
TYPE\_OPERATIVE\_TIME  
RECOV\_TYP\_DESC
- 53. **FTS\_STATUS**  
INDIVIDUAL\_PURCHASE\_IND  
SUCCESS\_IND  
STAT\_DESC  
SUCCESS\_IND  
DELAY\_IND  
OBR\_IND
- 59. **FTS\_TRACE**  
SPEC\_INST  
REMARKS\_TO\_REQSTR
- 65. **FTS\_VEHICLE**  
SEQ\_NO  
VEH\_MAKE  
VEH\_MODEL  
VEH\_YEAR

## APPENDIX B





U.S. Department of Justice

United States Attorney  
Eastern District of New York

One Pierrepont Plaza  
Brooklyn, New York 11201

Mailing Address: 147 Pierrepont Street  
Brooklyn, New York 11201

October 4, 2004

By Fax (214) 969-5100 and mail  
Michael L. Rice, Esq.  
Jones, Day  
2727 North Harwood Street  
Dallas, Texas 75201-1515

Re: City of New York v. Beretta, et al.  
Civil Action No. CV-00-3641  
(Weinstein, J.) (Pollak, M.J.)

Dear Mr. Rice:

On behalf of the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), this Office writes to respond to the subpoena dated September 15, 2004 (the "subpoena") that was sent under cover of your letter dated September 15, 2004 to Barry Orlow of ATF and the undersigned.

Pursuant to Department of Justice regulations (28 C.F.R. §§ 16.21-16.29) ATF and this Office are unable to act upon the subpoena unless and until the parties on whose behalf the subpoena was issued comply with the requirements of 28 C.F.R. § 16.22(d). Please provide the undersigned with a summary of the information sought and its relevance to the proceeding, as required by § 16.22(d). ATF and this Office will take no further action unless and until such a summary is provided.

Very truly yours,

ROSLYNN R. MAUSKOPF  
United States Attorney

A handwritten signature in dark ink, appearing to be "R. Mauskopf", written over a horizontal line.

By: ELLIOT M. SCHACHNER  
Assistant U.S. Attorney  
(718) 254-6053



U.S. Department of Justice

United States Attorney  
Eastern District of New York

One Pierrepont Plaza  
Brooklyn, New York 11201

Mailing Address: 147 Pierrepont Street  
Brooklyn, New York 11201

October 4, 2004

By Fax (214) 969-5100 and mail  
Patrick Carew, Esq.  
Jones, Day  
2727 North Harwood Street  
Dallas, Texas 75201-1515

Re: City of New York v. Beretta, et al.  
Civil Action No. CV-00-3641  
(Weinstein, J.) (Pollak, M.J.)


Dear Mr. Carew:

On behalf of the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), this Office writes to respond to the subpoena dated September 23, 2004 (the "subpoena") sent under cover of your letter dated September 23, 2004 to Barry Orlow of ATF and the undersigned.

Pursuant to Department of Justice regulations (28 C.F.R. §§ 16.21-16.29) ATF and this Office are unable to act upon the subpoena unless and until the parties on whose behalf the subpoena was issued comply with the requirements of 28 C.F.R. § 16.22(d). Please provide the undersigned with a summary of the information sought and its relevance to the proceeding, as required by § 16.22(d). ATF and this Office will take no further action unless and until such a summary is provided.

Very truly yours,

ROSLYNN R. MAUSKOPF  
United States Attorney

By:   
ELLIOT M. SCHACHNER  
Assistant U.S. Attorney  
(718) 254-6053



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

*One Pierrepont Plaza  
Brooklyn, New York 11201*

*Mailing Address: 147 Pierrepont Street  
Brooklyn, New York 11201*

October 4, 2004

By Fax (212) 267-5916 and mail  
Alison A. Snyder, Esq.  
Lester, Schwab, Katz & Dwyer, LLP  
120 Broadway  
New York, NY 10271-0071

Re: Jaquione Johnson v. Bryco Arms, et al.  
Civil Action No. CV-03-2582  
Joan Truman Smith v. Bryco Arms, et al.  
Civil Action No. CV-02-3029  
(Weinstein, J.) (Pollak, M.J.)


Dear Ms. Snyder:

On behalf of the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), this Office writes to respond to the subpoena (the "subpoena") dated September 20, 2004 sent under cover of your letter dated September 20, 2004 to Barry Orlow of ATF and the undersigned.

Pursuant to Department of Justice regulations (28 C.F.R. §§ 16.21-16.29) ATF and this Office are unable to act upon this demand unless and until your client complies with the requirements of 28 C.F.R. § 16.22(d) are met. Please provide the undersigned with a summary of the information sought and its relevance to the proceedings, as required by § 16.22(d). ATF and this Office will take no further action unless and until such a summary is provided.

Very truly yours,

ROSLYNN R. MAUSKOPF  
United States Attorney

  
By: ELLIOT M. SCHACHNER  
Assistant U.S. Attorney  
(718) 254-6053



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

*One Pierrepont Plaza  
Brooklyn, New York 11201*

*Mailing Address: 147 Pierrepont Street  
Brooklyn, New York 11201*

October 5, 2004

By Fax (212) 599-6385 and mail  
Leonard Rosenbaum, Esq.  
Renzulli, Pisciotto & Renzulli  
300 East 42<sup>nd</sup> Street  
New York, NY 10017

Re: Jaquione Johnson v. Bryco Arms, et al.  
Civil Action No. CV-03-2582  
Joan Truman Smith v. Bryco Arms, et al.  
Civil Action No. CV-02-3029  
(Weinstein, J.) (Pollak, M.J.)

Dear Mr. Rosenbaum:

On behalf of the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), this Office writes to respond to the subpoena (the "subpoena") dated October 4, 2004 sent under cover of your letter dated October 4, 2004 to Barry Orlow of ATF and the undersigned.

Pursuant to Department of Justice regulations (28 C.F.R. §§ 16.21-16.29) ATF and this Office are unable to act upon this demand unless and until your client complies with the requirements of 28 C.F.R. § 16.22(d) are met. Please provide the undersigned with a summary of the information sought and its relevance to the proceedings, as required by § 16.22(d). ATF and this Office will take no further action unless and until such a summary is provided.

Very truly yours,

ROSLYNN R. MAUSKOPF  
United States Attorney

A handwritten signature, likely of Elliot M. Schachner, written in ink over a horizontal line.

By: ELLIOT M. SCHACHNER  
Assistant U.S. Attorney  
(718) 254-6053